

# Canada Lynx

## Incidental Take Plan and Permit Application for Maine Trapping Program

### *Questions and Answers*

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## *Permit Process*

### **1. Why does MDIFW need a permit, and will other activities need permits?**

The federal Endangered Species Act (ESA) protects all species on the lists of threatened and endangered wildlife from “take,” which is broadly defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect or attempt to do those actions.

The State of Maine, by conducting a statewide trapping program and by issuing associated trapping licenses, is responsible under the ESA to avoid take of the threatened Canada lynx.

In an attempt to trap other target animals, a trapper could incidentally trap a lynx, which would be considered take under the ESA. There is no requirement for the take to significantly affect population levels. MDIFW and the Service have documented incidental take of lynx in the state. MDIFW’s estimates for take are in question 14.

Any person, tribe, business, state or federal agency that believes its activity may result in take of any federally protected species should consider obtaining an incidental take permit.

### **2. Are other states pursuing incidental take coverage for their trapping programs?**

Incidental trapping of lynx has been documented in Maine and Minnesota, and both states have developed (or are developing) draft incidental take plans to obtain coverage under the ESA. Plans have not been developed in other states where lynx occur because incidental trapping of lynx has not been documented in many of those states.

### **3. What is required to obtain an incidental take permit under the Endangered Species Act?**

Section 10 of the ESA identifies the conditions for granting incidental take permits. The state is eligible to seek this permit because, except for incidental take of Canada lynx, the program is lawful.

The applicant must provide an incidental take plan, also known as a habitat conservation plan, to accompany the permit application. The following must be described in the plan:

- The impact that will likely result from the incidental take;
- Steps the applicant will take to minimize and mitigate such impacts;
- Funding that will be available to implement such steps;
- Alternative actions to such take the applicant considered;
- Reasons why these alternatives are not being utilized; and
- Other measures the Secretary of the Department of the Interior, through the U.S. Fish and Wildlife Service, may require.

In order to issue a permit, the Secretary of the Interior must find:

- The taking will be incidental, which means it is not the purpose of carrying out an otherwise lawful activity;

- The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of incidental taking;
- The applicant will ensure that adequate funding for the plan will be provided; and
- Any additional measures, if required, are met.

The permit may contain terms and conditions deemed necessary. The Service has a habitat conservation plan manual to help applicants

([http://www.fws.gov/midwest/endangered/permits/hcp/hcp\\_readings.html](http://www.fws.gov/midwest/endangered/permits/hcp/hcp_readings.html)).

#### **4. What is the National Environmental Policy Act (NEPA)?**

NEPA requires federal agencies to evaluate the environmental impacts of their proposed actions and reasonable alternatives. The Service must meet NEPA requirements during the incidental take permitting process. In this case, the Service has prepared a draft environmental assessment (EA).

NEPA requires that the Service thoroughly examine the impacts of issuing an incidental take permit to MDIFW for incidental trapping of lynx. An EA must analyze and describe the direct, indirect and cumulative effects of the proposed action and the alternatives on the quality of the human environment. The assessment must use the best available science to compare the impacts caused by the proposed action and the alternatives.

#### **5. Why are the fish and wildlife agencies encouraging public participation in this process?**

Public involvement is an important part of the “Incidental take plan” permit and NEPA process. Both agencies want the public to understand the draft plan, the draft environmental assessment and the incidental take permit issuance process. The Service and MDIFW will host informational sessions to help further public understanding of these issues and to encourage and enable the public to evaluate and provide written comments on the application and related documents (See question 8 for meeting information).

#### **6. What kinds of comments are the agencies seeking?**

The agencies reviewed many alternatives to avoid incidental take of Canada lynx, but both the Service and MDIFW believe expertise among interested parties could provide important additional information and options. The agencies seek substantive public comments on the draft plan and environmental assessment, specifically concerning the following:

- **Proposed mitigation activities and possible additional measures**—MDIFW proposes to mitigate the potential lethal take of lynx by creating habitat on state lands, perhaps through the Maine Bureau of Public Lands. The Service seeks input on additional ways to effectively mitigate nonlethal or lethal take.
- **Extent of unreported incidental trapping of lynx**—Though many trappers report incidentally trapped lynx to MDIFW, both agencies are aware of some instances where these events have not been reported.
- **Different or additional regulations and trapping methods that could be more effective in minimizing take of lynx**—The Service and MDIFW believe that trappers

and non-trappers may have additional ideas; the agencies seek innovative, practicable ideas that could further minimize capture and injury of Canada lynx in traps.

- **Additional measures or monitoring to provide information on changes in trapping and lynx populations**—Monitoring ensures the effectiveness of the plan and helps guide management activities. The agencies seek input on the most effective and practicable methods to monitor take by trapping, lynx and hare populations, and their habitat.
- **Population models**—The Service must determine if issuing a permit will be likely to jeopardize the continued existence of the lynx. MDIFW provided a lynx population model projecting that the death of five lynx over the 15-year permit period would not significantly affect the lynx population; the Service must evaluate this model.

## 7. What measures are the agencies offering in the plan and environmental assessment?

MDIFW enacted and proposes to continue a number of measures to minimize and mitigate impacts to lynx:

- Annually mailing licensed trappers information on lynx identification and handling procedures;
- Customizing and distributing the booklet "How to avoid the incidental take of lynx" to trappers in Maine;
- Continuing to feature measures to prevent lynx incidental captures in Maine's trapper education program;
- Mandatory reporting of lynx incidental captures;
- Operating a lynx hotline for reporting incidentally caught lynx;
- Formally recognizing trappers reporting incidentally trapped lynx;
- Maintaining current restrictions on the use of conibear traps ("killer-type" traps) where lynx reside;
- Investigating the efficiency of lynx exclusion devices for conibear traps; and
- Maintaining current restrictions on the use of visible bait by trappers.
- Using veterinarians to evaluate and treat any major injuries to lynx.

The Service's assessment evaluated other possible measures to minimize and mitigate impacts to lynx including:

- Develop a DVD to explain how to avoid trapping lynx;
- Veterinarians evaluate all injuries to trapped lynx;
- Require additional enforcement details and monitor trapper compliance with regulations
- Require lynx exclusion devices for all upland use of conibear traps;
- Increase penalties for non-reporting take of lynx;
- Require use of foothold traps meeting best management practices;
- Eliminate drag sets;
- Require 24-hour tending of conibear traps;
- Employ pan tension devices on foothold traps to exclude lynx;
- Increase penalties for not reporting take of lynx;
- Require periodic retraining of trappers;

- Limit size of conibear traps;
- Limit upland trapping to October and November;
- Require Maine become a participating member of the Wildlife Violator Compact;
- Increase the amount of habitat created to mitigate for take; and
- Close trapping in northern Maine.

Details on proposed minimization and mitigation measures can be found in Table 6.1 of Maine's plan. Additional measures reviewed by the Service can be found in the EA in Section 2.1.

## **8. What would be the results of the plan and issuing a permit?**

The permit would allow MDIFW to take a certain number of lynx over a 15-year period. The permit allowing incidental take would also apply to individual trappers as long as trappers abide by all laws and regulations. The permit would also outline the responsibilities, obligations and expectations of MDIFW under the ESA for the trapping program, including minimization measures, mitigation and monitoring. (See question 6 for possible measures).

## **9. How can I comment on the documents?**

We encourage the public to share information that may help reduce incidental take of lynx, to discuss conservation measures in the plan and EA, and to ask questions about lynx, trapping, conservation, and the permitting process.

The Service and MDIFW will accept written comments on the plan and EA through February 7, 2012. Send comments to [hcpmainetrapping@fws.gov](mailto:hcpmainetrapping@fws.gov) or to the Service's Maine Field Office at 17 Godfrey Drive, Suite 2, Orono, ME 04473. Comments sent through U.S. mail should be postmarked no later than February 7, 2012 to be considered.

## **10. What's next?**

The Service and MDIFW will hold three public information sessions. Each session will be from 5 to 9 p.m. and have information tables, presentations by the agencies, and opportunities for discussion and submitting written comments.

- December 13 at University of Maine at Presque Isle, 181 Maine Street, Presque Isle, 04769 (Grand Ballroom-Allagash and Aroostook rooms); 207-768-9502
- December 14 at Black Bear Inn, 4 Godfrey Drive, Orono, 04473; 207-866-7120
- December 15 at University of Southern Maine in Gorham, 37 College Avenue, Gorham, 04038 (Bailey Hall); 207-780-5961

These meetings are not formal public hearings. Formal public comments will need to be submitted in written form (see question 8).

The Service, in partnership with MDIFW, will review public comments on the draft plan and draft EA. Appropriate changes will be incorporated into the documents.

Additional documents that must be prepared by the Service include an evaluation of whether the final EA adequately documents that issuing a permit will not have a significant effect on the environment, an analysis of whether the final permit meets the legal requirements described under Question #3, and a biological opinion considering whether the issuance of the permit is likely to jeopardize the continued existence of the distinct population segment (DPS) or result in the destruction or adverse modification of its critical habitat.

## *Canada lynx*

### **11. Why are lynx federally listed as threatened in many U.S. states when they are abundant in Canada?**

Lynx were listed as threatened under the Endangered Species Act in 2000 as a DPS. The DPS includes the states of Colorado, Idaho, Maine, Minnesota, Montana, New Hampshire, New York, and Washington, as well as portions of Michigan, Oregon, Utah, Vermont, Wisconsin, and Wyoming.

A DPS can apply to a population that is separated or discrete from other populations and that has significant biological or ecological value. The DPS policy applies to vertebrate animals that may be endangered or threatened in part of their range, but are more numerous elsewhere. As with the lynx, international boundaries can define the DPS under circumstances where there are differences in status and management. In addition, the loss of this U.S. population would significantly reduce the range of the species.

Lynx are protected by the provincial governments in New Brunswick and Nova Scotia, where they cannot be intentionally trapped. Lynx can be harvested in the province of Quebec.

The listing process for the lynx is described in detail in the Federal Register in 2000 and in a reevaluation in 2003 (see <http://www.fws.gov/mountain-prairie/species/mammals/lynx/listing.htm>).

More information on listing a DPS is at: <http://www.fws.gov/endangered/laws-policies/policy-distinct-vertebrate.html>.

### **12. Why are lynx considered threatened by the Service and not MDIFW?**

The federal Endangered Species Program reviews the status of a species from a national or range-wide perspective, examining the following factors: threat to habitat and range, overutilization, disease or predation, regulatory protection, and other natural or manmade factors affecting the species' survival.

Lynx within Maine do not currently meet the state of Maine's Endangered Species Act requirements for protection as a state-threatened or endangered species. The status of Canada lynx is annually reviewed by MDIFW.

### **13. What is the population status of lynx in Maine?**

Maine's lynx population is part of a larger lynx population that extends at least into Quebec's Gaspé Peninsula and into northern New Brunswick, Canada. Currently, MDIFW estimates that there are between 600 and 1,200 lynx in northern and western Maine.

## *Trapping*

### **14. Does the USFWS have a position on trapping?**

The Service does not have a formal position on trapping, but both federal and state agencies recognize legal, regulated trapping as a valued outdoor pursuit that can be an effective wildlife management tool. State and federal agencies support state-regulated trapping programs that maintain sustainable target species populations and minimize impacts to non-target species' populations.

### **15. How will the permit and plan affect lynx?**

MDIFW anticipates that up to 13 lynx per year, or 195 total, might be caught in foothold restraining traps following issuance of the 15-year permit. MDIFW expects that the vast majority of lynx caught in these traps will be released with little to no injury.

MDIFW does not know of any lynx fatalities resulting from lynx being injured in a foothold trap, however, the fate of lynx caught by trappers has not been thoroughly monitored. As a precaution, MDIFW requested a permit that would allow five lynx mortalities as the result of incidental trapping.

### **16. How will the permit and plan affect trapping?**

MDIFW has already made several substantial changes to trapping laws in recent years to avoid and minimize take of lynx. Some or all of these measures may be employed in the future, but there could also be additional practicable measures taken to avoid incidental take of lynx in traps. The final incidental take plan will specify these measures.

### **17. What is the extent of incidental trapping of lynx?**

From 1999 to 2010, 53 lynx have been incidentally trapped and reported in Maine; six were caught in conibear traps and 47 in foothold traps. Four lynx died as the result of incidental trapping since lynx were federally listed as a threatened species in 2000. All of these lynx were killed in conibear traps. None of the traps were set in compliance with current conibear trap regulations, which were subsequently adopted to prevent future lynx captures.

MDIFW has not documented lynx fatalities resulting from a foothold trap, although few lynx caught by recreational trappers have been radio-tagged and monitored after release. One of the 47 lynx caught in foothold traps required rehabilitation from injuries sustained during the incidental trapping incident. The lynx fully recovered from its injuries, was released back in the wild with a radio collar, and lived more than 5 years after being released.

Biologists do not know how many incidentally trapped lynx are not reported. Since 2008, reporting incidentally trapped lynx has been mandatory. MDIFW and the Service know of three unreported instances following the mandatory requirement where lynx were incidentally trapped. One was a poaching incident where the person was convicted and fined and served time in prison.

The Service seeks substantive information from the public on the number of incidentally trapped lynx that are not reported.

**18. Will this permit allow trappers to snare coyotes?**

No, the incidental take plan was written to cover only Maine's existing trapping program. Trappers can currently use snares only to trap beaver underwater or to trap bear (using foot snares/cable traps).

**19. Will the permit restrict the size of foothold traps?**

Neither the draft plan nor the EA consider continuing the trap size restrictions imposed by the consent decree that resulted from a lawsuit against MDIFW's regulated trapping program. (See Question #6 for additional trap-related restrictions considered in the Service's assessment.) The Service is seeking public comments on whether foothold trap size is an effective measure to minimize take of lynx or reduce injury.

**20. Are foothold traps safe for lynx?**

Foothold traps are designed to restrain and not harm an animal. Injuries do occur, but the vast majority of injuries to lynx are confined to small cuts and bruises.

**21. If kittens are with a female lynx that is trapped, what happens to the kittens?**

If the female can be released from the trap, the female and the kitten will find each other quickly because kittens typically do not stray far from their mother. Maine's trapping season occurs in the fall, when the kittens are no longer dependent on their mother for milk. However, family groups that remain intact are more successful at catching prey. Thus, if the female lynx dies, these kittens may have a lower chance of surviving than kittens that remain with their mother until the spring.

**22. Will the permit allow trappers to use baited conibear traps on the ground?**

A conibear trap is a general term used to describe a "killer-type" or "body-gripping" trap that is designed to quickly kill an animal when the animal tries to pass through the trap. These traps are designed to strike the animal across the head and torso and kill the animal in less than four minutes. These traps are most commonly used in upland settings to catch marten and fisher. In aquatic to semi-aquatic settings they are primarily used for mink, muskrats, and beaver. MDIFW has received six reports of lynx caught in upland conibear traps in the last 12 years.

The current incidental take plan proposes that conibear traps set in the lynx range continue to follow current trapping regulations. These regulations require that trappers set baited



conibears on leaning poles and follow detailed guidelines when making the set to discourage lynx from accessing conibear sets.

The EA evaluates the use of lynx exclusion devices as an alternative method for protecting lynx from being incidentally caught in conibear traps. For the past two years, MDIFW biologists have worked with Maine trappers to refine and test lynx exclusion devices. These devices have been shown to be completely effective in excluding lynx from conibear traps.

The agencies encourage informed comments on whether leaning poles and exclusion devices effectively minimize take of lynx.

Find more resources at the U.S. Fish and Wildlife Service, Maine Field Office site at:  
[http://www.fws.gov/mainefieldoffice/Canada\\_lynx.html](http://www.fws.gov/mainefieldoffice/Canada_lynx.html).